

I. Court Decisions – Our Jurisdiction

- A. Ian McEuen and Missouri Protection and Advocacy Services, Inc. v Missouri State Board of Education, Circuit Court of Cole County, November 21, 2002. Appeal in Missouri Supreme Court pending.

Court held that HB 2023 is constitutional as enacted. Issues: whether the original purpose of bill was changed; whether the bill contained more than one subject, clearly expressed in its title.

- B. Lagares v Camdenton R-III School District, Missouri Court of Appeals, Western District, March 19, 2002.

Court held that Missouri has a higher standard for implementing IDEA than the federal standard.

- C. MO DESE v Springfield R-XII School District, U.S. District Court, Western District, Southern Division, June 21, 2002, (appeal pending).

Court held that students who meet the Missouri statutory definition of “severely handicapped” are the responsibility of the State.

- D. Fick v Sioux Falls District 49-5, 8th Circuit Court of Appeals, July 23, 2003.

IDEA does not require transportation to day care after school.

- E. Neosho R-V School District v Kathy Clark, et al, 8th Circuit Court of Appeals, January 15, 2003.

Court upheld trial court judgment that student did not receive a free appropriate public education. IEPs required a behavior management plan; school district failed to develop a behavior management plan and thus the IEP was not reasonably calculated to provide FAPE because the school failed to implement an essential element of the IEP.

- F. CJN v Minneapolis Public Schools, et al., 8th Circuit Court of Appeals, March 21, 2003.

Court upheld trial court judgment that student received a free appropriate public education where he achieved academic progress and where the IEP team continually tailored his IEP to address his behavioral needs. Good faith effort of school district acknowledged.

II. Court Decisions – Outside Our Jurisdiction

- A. Placement/Least Restrictive Environment (LRE) School District of Wisconsin Dells v Z.S., 7th Circuit Court of Appeals, 2002

Court upheld homebound placement of a 10-year-old student with severe emotional disturbance/autistic symptoms after a “disastrous” history of attending school. Court also

held that the one-month delay in determining where to place the student was justifiable, considering his past behaviors and the need for a thorough consultative process.

B. School Closest To Home

McLaughlin v Holt Public School, 6th Circuit Court of Appeals, February 24, 2003.

The home school should only be used if it offers the appropriate education for the student pursuant to the IEP.

C. Due Process Hearings/Parent Harassment

Deleon Independent School District v Seth B. N.D. Texas 2001.

A school district has no standing to sue under IDEA for abuse by parents of the due process hearing system.

D. Discipline/Safe Schools

Washington v E.J.Y., Washington Court of Appeals, October 14, 2002.

Conviction of special education student upheld for verbal threat to “get my gun and do like Columbine.”

E. Confidentiality/Family Educational Rights and Privacy Act

1. Gonzaga University v Doe
U.S. Supreme Court 2002

No private lawsuits permitted for violations of FERPA.

2. Owasso Independent School District No. I – 011 v Falvo
U.S. Supreme Court, February 19, 2002

FERPA is not violated when students grade each other’s papers and call grades out to teacher to record.

3. Cudjoe v Edmond Public Schools
10th Circuit Court of Appeals, 2002

A teacher’s disclosure of information, observations, and impressions of students has to rise to the level of invading “intimate privacies” for FERPA to be violated.

4. Family Privacy Compliance Office (FPCO) 2001
U.S. Department of Education
Letter to: Bartlett

FERPA allows for records disclosure to private contractor, without parent consent.

5. Family Privacy Compliance Office (FPCO) 2002
U.S. Department of Education
Letter to: Moriah Central School

FERPA does not apply to disclosures from a source other than a student’s educational records.

- F. Exclusion from School/Head Lice
Souderton Area School District v Elisabeth S.
820 A. 2d. 863 (Pa. Comwlth 2003)

Exclusion for head lice, based on State Department of Health regulations, is not a disciplinary exclusion subject to IDEA procedures.

III. OSEP letters

- A. Letter to DuRant
OSEP 2002

School districts may not require parents to enroll in Medicaid, to receive IDEA services. School districts cannot release personally identifiable information about students to Medicaid, without parent consent. School districts may not disclose information on students who are receiving services under IDEA, to Medicaid agency in order to determine which of the students are Medicaid eligible, without parent consent.

- B. Letter to Yudien
OSEP 2003

OSEP reiterated that school districts may not initiate due process against a parent, to override lack of consent for initial placement.

IV. Miscellaneous

- A. Sign Language Interpreters – July 2003 deadline for certifications/August 2003 emergency rule

EIPA evaluation available/conversion for restricted education setting certificate.

- B. New statutory provisions

1. HB 655: Least Restrictive Environment
Judicial Review
2. HB 613: Division of Family Services
Abuse/Neglect investigations
3. HB 296: Teacher Certification
Two levels: initial certification and career continuous certification

- C. New State Regulations/State Plan Revision

- D. Medicaid: Health Insurance Portability Accounting Act (HIPAA)/Medicaid billing verses educational records.

- E. Resources

Division of Special Education website: <http://dese.mo.gov/divspeced/>